

Application No. 10/750,381  
Amendment dated March 7, 2008  
Reply to Final Office Action dated October 18, 2007

### **REMARKS**

Claims 1-42 are pending in the present application. Claims 1, 2, 4, 13-18, 31, 32, 36, 37, and 42 are presently under consideration, with claims 3, 5-12, 19-30, 33-35, and 38-41 being withdrawn from consideration. Claims 1 and 31 are currently amended, with support for the amendments appearing in Figures 1-8. Reconsideration in view of the foregoing amendments and the following remarks is respectfully requested.

#### **A. Rejection of Claims 31, 32, 36, and 42 under 35 U.S.C. §102(e)**

Claims 31, 32, 36, and 42 stand rejected under §102(e) as being anticipated by Coates. Referring to Applicant's July 26, 2007 argument that "Coates does not teach an absorbent pad having a back portion that terminates in the crotch portion of the garment shell," the Examiner states that "[t]his is not persuasive because applicant has not set forth clear boundaries for the claimed crotch region." Final Office Action mailed October 18, 2007, p. 2. Applicant has now amended claim 31 to more precisely specify that the "absorbent pad is located entirely within approximately a front half of the garment." Support for this amendment appears in Figures 1, 2, 6, and 7.

With respect to Coates, the Examiner relies heavily on Fig. 10. Applicant notes that the embodiment of Fig. 10 of Coates includes no absorbent pad. Accordingly, since that element is missing, Fig. 10 of Coates cannot anticipate claim 31 of the present application.

However, even if Fig. 10 of Coates did include an absorbent pad, there is no disclosure in Coates that such absorbent pad is "located entirely within approximately a front half of the garment" as now claimed by Applicant. Accordingly, claim 31, and claims 32, 36, 37, and 42 which depend therefrom, are patentable over Coates.

#### **B. Rejection of Claims 1, 2, 4, 13-18, and 37 under 35 U.S.C. §103(a)**

Claims 1, 2, 4, 13-18, and 37 stand rejected as being obvious unpatentable over Coates in view of Yamamoto. Claim 1 has been amended to more precisely specify that "the absorbent pad is located entirely within approximately a front half of the garment." Support for this amendment appears in Figures 2-5 and 8.

There is no disclosure in either Coates or Yamamoto of an absorbent pad that is "located entirely within approximately a front half of the garment" as now claimed by Applicant. In addition, Coates relates to the use of a suspended pocket sling attached directly to a boxer outer shell that has a

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waistband stitched with elastic. See Coates at paragraphs 82-88. There is no suggestion or motivation in Coates to add a second elastomeric waistband in any way. One of skill in the art would not view Coates as needing a second elastomeric waistband, such as the one forming a part of Applicant's inner absorbent assembly of claim 1, and thus one of skill in the art would not look to the "annular elastic waistband" of Yamamoto to supply this element.

Yamamoto, for its part, relates to a pad suspended from an annular elastic waist band. Although Yamamoto mentions that the pad "may be used independently or with a separately provided outer cover," Yamamoto offers no suggestion or motivation to use its annular elastic waist band in conjunction with a second elastic waist band present in a separate garment shell. Even Yamamoto's cryptic reference to a "separately provided outer cover" makes no suggestion or motivation to insert the structure of Yamamoto into a second structure having a second elastomeric waist band, and thus one of skill in the art would not look to combine Yamamoto with Coates. Finally, even if Yamamoto were used with the "separately provided outer cover" to which it refers, there is no teaching or suggestion that the annular elastic waistband of Yamamoto would be or could be "connected to" the garment shell, as set forth in Applicant's present claim 1.

For all of these reasons, claim 1 as amended, and claims 2, 4, and 13-18 which depend therefrom, are patentable over both Coates and Yamamoto, whether alone or in combination.

C. Conclusion

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

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## CERTIFICATE OF TRANSMISSION

I, Judy L. Halbrook, hereby certify that on March 7, 2008 this Amendment is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

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Judy L. Halbrook

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